

EXHIBIT 5

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

SUVERINO FRITH et al, individually and on behalf of all others similarly situated,

Plaintiffs,

Case No. _____

v.

WHOLE FOODS MARKET, INC.

Defendants.

**AFFIDAVIT OF ABDULAI BARRY IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I, Abdulai Barry, hereby declare:

1. I have personal knowledge of the facts set forth in this declaration and could and would testify competently to them.
2. I have been working as an employee for Whole Foods for approximately four years. I am Black.
3. I work at the Whole Foods located at 200 Alewife Brook Pkwy in Fresh Pond, Cambridge, Massachusetts.
4. Due to the onset of the COVID-19 pandemic, Whole Foods requires all its employees wear a mask to work.
5. Following the death of George Floyd and demonstrations springing up across the country in support of the "Black Lives Matter" movement, I heard that Whole Foods employees at other locations had begun wearing Black Lives Matter masks.

6. Specifically, I heard that other Whole Foods employees at the River Street location in Cambridge, Massachusetts, had started wearing Black Lives Matter masks to work and had been sent home and disciplined by Whole Foods in response.
7. On July 12, 2020, in solidarity with other Whole Foods employees and to express my support for my co-workers at other locations expressing support for me and other Black employees, and to protest Whole Foods' discrimination and retaliation against its Black employees and non-Black employees banding together, I wore a Black Lives Matter mask to work. I put the mask on around 7:00 p.m., late into my shift and in coordination with a few other co-workers.
8. A store leader approached me and told me that my mask violated the dress code policy and I would need to remove it. I refused and was sent home. I was only paid for my time worked that day, and not the remainder of my shift.
9. Prior to wearing my Black Lives Matter mask to work, I had not received any kind of discipline.
10. In fact, store supervisors have often complimented me for going above and beyond in my work. Whole Foods often rewards good work by giving employees about \$7.50 in store credit, and I have often been rewarded for my work in this way.
11. I expected that Whole Foods would support us in wearing the Black Lives Matter masks because the company claims to be inclusive and support all of its employees and has publicly supported the movement. I feel injured, targeted,

and discriminated against for being made to remove my Black Lives Matter mask and not being able to express that my life matters in my workplace.

12. Whole Foods claims that it is disciplining us because the Black Lives Matter masks violate the dress code policy, which prohibits employees from wearing clothing with visible slogans, messages, logos, or advertising that are not company-related.

13. I believe that Whole Foods is selectively enforcing its dress code to discipline employees for wearing Black Lives Matter Masks, by sending people home.

14. I believe that Whole Foods is discriminating and retaliating against me by disciplining me and co-workers who associate with me or express support for me by wearing Black Lives Matter masks, by disciplining us for wearing Black Lives Matter masks.

15. I plan to continue to wear my Black Lives Matter mask at work as often as possible to protest Whole Foods' discriminatory policy of selectively enforcing its dress-code as a means to prohibit Black Lives Matter masks.

16. However, I am worried about continuing to be sent home and losing wages, and of being fired. I am working at Whole Foods for the remainder of the summer; I am also a student at Denison University, where I will be returning in the fall. I need the money in order to support myself and my studies. Without my income from Whole Foods, I will not be able to pay my school and other bills, for food, or help my parents pay for groceries.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 07/18/2020



Abdulai Barry